

REMARKS

Dr. Lamb thanks Examiner Gibson for the time and effort given to the present application and for the courtesy given to him and his representatives during the interview of June 7, 2006.

Claims 1, 3, 8, and 14 have been rejected as anticipated by United States Patent Number 2,007,626 (Waring). Claims 2 and 4 have been rejected as obvious based on Waring. Claims 5-6 and 11 have been rejected as obvious based on Waring. Claims 9 and 15 have been rejected as obvious based on Waring in view of United States Patent Number 3,830,236 (Hanke). Claim 10 has been rejected as obvious based on Waring in view of United States Patent Number 1,224,755 (Gamache). Claim 12 has been rejected as obvious based on Waring in view of United States Patent Number 5,158,535 (Paul).

Claims 2 and 4 have been objected to, and are amended to overcome the objection.

Amended Claims 1 and 3 and New Dependent and Independent Claims

Consistent with our discussion during the interview, claims 1 and 3 are amended to recite “the gripping portion being thick relative to the barrel in at least one transverse dimension.” Support for this limitation is, for example, at page 12, lines 4-5; page 3, lines 15-19. Figures 1 and 2 show the gripping portion being thick in two transverse dimensions. Figures 6 and 7 show the gripping portion being thick in one transverse dimension.

Waring discloses a “capsule applicator” that appears to be used by grasping “annular flange 16” and pushing “annular flanged shaped member 19” toward flange 16. Regardless what part of Waring’s devices are construed to correspond to the “gripping portion,” Waring neither teaches nor suggests the limitation, “the gripping portion being thick relative to the barrel in at least one transverse dimension.”

Further, new dependent claim 18 recites that “the gripping portion forms a stop for insertion of the device,” which is supported at (for example) page 12, lines 24-25; and new dependent claim 19 recites that “the gripping portion is bulbous” which is supported by the figures. New claim 20 is similar to claim 1 before the present amendment, except the gripping portion is recited as “bulbous.” Waring neither teaches nor suggests these

limitations, and Applicant submits that each of these claims are patentably distinct over Waring and any of the cited art.

New independent claim 21 recites some limitations that are similar to those of claim 1 and that “*the gripping portion being configured to be gripped by the user with one hand*” and “*a thumb grip attached to the flexible rod and located opposite the free end of the body such that pushing on the thumb grip by the user’s thumb* displaces the rod to push a solid object or medicament received in the passage out of the passage through the outlet thereof into the vagina of the user.” Support is, for example, in the as-filed claims and at page 6, line 24, to page 7, line 2 and page 11, lines 16-28;

During the interview, it was discussed whether Waring in theory could be held by a user for insertion into the user (even in inconveniently). Applicant submits that Waring teaches that, in use, the device is grasped by a person for use on another. Accordingly, Applicant submits that Waring does not disclose that the gripping portion is “configured to be gripped *by the user* with one hand.” In this regard, claim 21 identifies the device as for “*a female user to self-deposit* a solid object or a non-flowable medicament *in her vagina*.” (italics added).

Even if the Examiner finds the above unpersuasive, Waring neither teaches nor suggests “*a thumb grip attached to the flexible rod and located opposite the free end of the body such that pushing on the thumb grip by the user’s thumb* displaces the rod,” as recited in claim 21. Waring’s flanges 16 and member 19 are structurally and patentably different than that recited in claim 21 as the configuration of Waring’s flange 16 would appear to preclude access to member 19 by the user’s thumb during use of Waring’s device. Applicant submits that claim 21 is allowable.

Claims 2 and 4


The pending office action states that claims 2 and 4 are not patentable over Waring even though Waring does not disclose the claimed cross sectional shape, stating that a change in the shape of a prior art device is a design consideration within the skill of the art. The summary section of Applicant’s invention recites the structure and the advantages of it, stating among other things that the “roughly triangular cross section of the barrel, similar to that of a penis, allows the smallest area of contact or friction with a

posterior vaginal wall. Side walls of the barrel are thus in use angle away from lateral walls of the vagina, with a relatively broad superior wall of the barrel being stabilized by low pressure contact with the anterior vaginal wall.” (page 4, lines 19-28). Considering the explanation of the cross sectional structure and advantages of it, Applicant submits that the claimed cross sectional shape is more than a mere change in shape of a prior art device. Applicant requests that the Examiner cite art disclosing the limitations of claims 2 and 4 so that Applicant can form an appropriate response.

CONCLUSION

Applicant submits that the claims are in condition for allowance. If the Examiner determines that a telephone conversation would further the prosecution of this case in any way, she is invited to telephone the undersigned at her convenience.

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